

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**UNITED STATES OF AMERICA** : **CRIMINAL NO. 1:10-CR-0005-13**  
:  
**v.** : **(Judge Conner)**  
:  
**PEDRO LUIS RODRIGUEZ FRANCO** :

**ORDER**

AND NOW, this 15th day of September, 2011, upon consideration of the *pro se* motion to appoint new counsel (Doc. 598), filed by defendant Pedro Rodriguez Franco on July 11, 2011, wherein the defendant requests that the court remove his current court-appointed counsel, Daniel M. Myshin, Esquire, and appoint new counsel, and it appearing that defendant filed a notice of appeal to the Third Circuit on May 27, 2011, (see Doc. 549), and the court finding that the pending appeal divests the court of jurisdiction to consider the motion, see Venen v. Sweet, 758 F.2d 117, 120-21 (3d Cir. 1985); United States v. Lepo, 634 F.2d 101, 104 (3d Cir. 1980), and the court noting that defendant filed the same motion with the Third Circuit and that the Third Circuit addressed the motion and denied the request for the appointment of new counsel on July 27, 2011, see United States v. Franco, No. 11-2464 (3d Cir.) (Order dated July 27, 2011), it is hereby ORDERED that the motion to appoint new counsel (Doc. 598) is DISMISSED for lack of jurisdiction.

S/ Christopher C. Conner  
CHRISTOPHER C. CONNER  
United States District Judge